

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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KEVIN LOWE, :
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Petitioner, :
:
-against- :
:
UNITED STATES OF AMERICA, :
Respondent. :
:
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18 Civ. 898 (LGS)
14 Cr. 055 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on November 8, 2019, the Court issued an Opinion denying Petitioner's Petition pursuant to 28 U.S.C. § 2255 raising claims of ineffective assistance of counsel, failure to produce evidence and eliciting false testimony. Dkt No. 36;

WHEREAS, Petitioner has filed a motion to proceed *in forma pauperis* and a motion to be assigned counsel. Dkt No. 1;

WHEREAS, Petitioner has filed a motion for discovery to expand the record and a motion for an evidentiary hearing regarding the motion for discovery. Dkt Nos. 10, 26, 27;

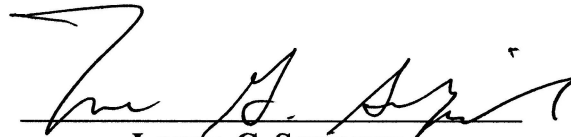
WHEREAS, Petitioner has filed a motion for the Government to comply with his Freedom of Information Act ("FOIA") request and a motion that he not be charged to receive such material. Dkt Nos. 3, 6, 9. Government filings in this matter suggest that Petitioner has submitted these requests to the Department of Justice's FOIA office, which was at that time processing the requests. *See* Dkt No. 12 at 3-4. It is hereby

ORDERED that the motion to proceed *in forma pauperis* and the motion to be assigned counsel are **denied** as moot. It is further

ORDERED that motion for discovery and the motion for an evidentiary hearing regarding discovery are **denied**, as Petitioner has not shown good cause to expand the record. *See* Fed. R. Governing § 2255 Proc. Rule 6(a); *see also id.* Rule 7 (“expanding the record” permitted only “[i]f the petition is not dismissed”). It is further

ORDERED that Government shall, by **December 4, 2019**, to the best extent possible, file a letter with the Court describing the status of Lowe’s FOIA request.

Dated: November 12, 2019
New York, New York

A handwritten signature in black ink, appearing to read 'Lorna G. Schofield', is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE